

### REMARKS

In response to the restriction contained in the October 6, 2003 Office Action, claims 52 – 55 have been canceled. Also, the abstract of the disclosure has been amended to delete the phrase “or the like” and the claims have been renumbered to correspond to the numbering adopted by the Examiner.

Claims 35 and 43 have been rejected under 35 USC 102 (b) as being anticipated by Kallassy (WO 99/26705). Kallassy is directed to producing a repeatable golf swing, which is not the object of the present invention. In golf, the best results are achieved by addressing a stationary ball in identical, repeatable swings. Also, in achieving this repeatable swing, Kallassy describes a method in which the hands begin together and separate progressively during the backswing and come back during the downswing prior to the point of impact. In using the device of the present invention, the hands begin in a separated position. The objective of the method of the present invention is to teach proper hand placement and body movement as well as optimal acceleration and techniques for producing maximum power in hitting a moving baseball. There are thus essential positioning and timing aspects of the method of the present invention which are absent in the teaching of Kallassy.

The Kallassy device also lacks an essential symmetry required in a baseball bat. Thus, in its principal embodiment Kallassy has a head that projects away from the shaft of the device and in all embodiments a handle which is asymmetric with respect to the shaft of the device.

Amended independent claim 35 drives home the symmetrical features of the present invention, including the combination of the cylindrical handle, the graspable cylindrical slide and the cylindrical head having its central bore fixed to the end of the shaft of the batting swing trainer. This combination is neither taught nor suggested in Kallassy.

Furthermore, applicant respectfully traverses the Examiner’s argument that in Kallassy the slide (20) strikes the head to produce an audible signal. The Examiner cites page 9, line 7 – 10 of Kallassy in support of this proposition. However, Kallassy states the following in the cited section:

Third, when the flares 22 and 24 come back into contact during downswing, they make a snapping sound at the simulated moment of impact to trigger desired wrist-roll action during follow through.

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Flares 22 and 24 meet at the handle, not at the head, and therefore neither teach nor suggest this claimed feature of the rejected claim.

Claims 36, 37 – 41, 42, 44, and 45 – 51 are rejected over various combinations of Kallassy and different patents describing baseball bats of various designs. Applicant respectfully submits that those skilled in the art looking to design a batting swing trainer would not look to golf swing training devices for guidance. Accordingly, applicant submits that all of these proposed combinations of Kallassy with batting art are inappropriate, and requests that the rejections under 35 USC 103 (a) be withdrawn.

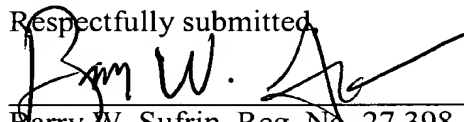
Furthermore, as to claim 39, it is submitted that neither Kallassy nor Anderson (U.S. Patent No. 4,898,386) teach or suggest the use of a plurality of rods for securing within the shaft of the device, nor, more importantly, that the rods both be of varying weight and length depending on the needs and demands of the user and the length of the shaft of the device.

Also, as to claim 40, it is submitted that while Kallassy does teach the use of a single weight that can be attached at various locations on the shaft of the Kallassy swing training device, neither Kallassy nor Anderson teach or suggest a system which includes interchangeable heads of differing weights. The rejection of this claim is purely a hindsight analysis and should be withdrawn.

Finally, amended claim 51 calls for an electronic means to emit the audible signal. The Examiner argues that Kallassy shows mechanical means for emitting an audible signal but provides no reference teaching or suggesting electronic means for emitting such a signal.

It is respectfully requested that the objections and rejections in the pending office action be withdrawn in view of the amendments and arguments presented above. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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